

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : WITTEVEEN et al. EXAMINER: SHOMER, ISSAC
SERIAL NO. : 10/591,570 ART UNIT : 1612
FILED : April 26, 2007 CONFIRM NO.: 6231
FOR PARTICULATE FLAVORING COMPOSITION

April 5, 2011

**RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF
(37 CFR 41.37)**

Mail Stop – Board of Patent Appeals and Interferences
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REMARKS

In response to the Notice of Non-Complaint Appeal Brief of March 23, 2011, Applicants submit herewith SUMMARY OF THE CLAIMED SUBJECT MATTER with mappings to the page and line number of the specification submitted on August 31, 2006.

In reviewing the foregoing section in order to correct the mapping, Applicants noted two typographical errors and have corrected them. At page 8, seventh full paragraph, line 1, both "7 wt %" has been corrected to read -- 70 wt% -- as recited in pending claim 35.

At page 8, last full paragraph, line 2 at the end thereof, the "bloom value of 10-30" has been corrected to read -- bloom value of 10 – 300 -- as recited in pending claim 37.

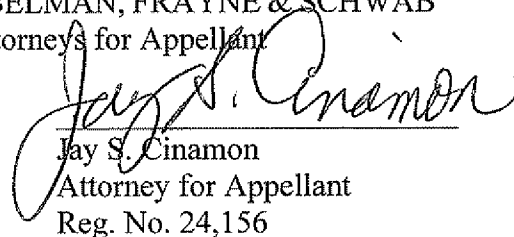
Entry of the newly mapped SUMMARY OF CLAIMED SUBJECT MATTER is respectfully solicited.

If any fees are due, please charge same to our Deposit Account No. 01-0035.

Respectfully submitted,

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(v.) SUMMARY OF THE CLAIMED SUBJECT MATTER

When reference is made hereinafter to pages and lines of the publication, it is to Publication No. US 2007/0274930 A1.

Independent claim 21 recites controlled release particles wherein discrete element of flavouring-containing fat are dispersed in a gelatine matrix containing (pg. 6, lines 16-17).

0.1-40 wt% of flavouring, (pg. 6, line 18),

10-70 wt%, of gelatine, (pg. 6, line 19),

0.1 – 75 wt% of fat (pg. 6, line 20) selected from triglycerides, sucrose polyesters of fatty acids and combinations thereof (pg. 9, lines 5-16), the fat having a melting point of at least 35° (pg. 6, line 12) and (pg. 9, line 12);

0.1-10 wt% of film forming carbohydrate selected from the group consisting of gums, modified starches, cellulose derivatives and mixtures thereof (p. 11, lines 7-8);

1-30 wt% of carbohydrate plugging material selected from the group consisting of mono-, di- and trisaccharides and mixtures thereof (p. 11, line 18); and

said particles having a volume weighted average diameter of 50-100µm (pg. 10, lines 25 – 27).

Dependent claim 22 recites a composition wherein at least 90% of the flavouring is dissolved or dispersed homogeneously in the discrete fat elements. (p. 9, lines 17 -18).

Dependent claim 23 recites a composition where the carbohydrate plugging material is selected from glucose, fructose, maltose, sucrose, raffinose, xylitol, sorbitol and mixtures thereof (pg. 11, lines 17 – 19).

Dependent claim 24 recites that the gelatine has a bloom value of 10-300 (pg. 8, lines 22 – 23).

Dependent claim 25 recites that the fat has a melting point of at least 38°C. (pg. 9, lines 12 – 13).

Dependent claim 26 recites that the flavouring is selected from methol, mint, eucalyptus and mixtures thereof (pg. 8, lines 12 -14).

Dependent claim 27 recites that the composition includes at least 50wt% of the controlled release particles (pg. 10, line 20).

Dependent claim 28 recites that the flavouring and fat within the controlled release particles are present as discrete elements are entrapped within a matrix containing the gelatine (pg. 9, lines 14 – 17).

Dependent claim 29 recites that the combination of flavouring, gelatine, fat film forming carbohydrate and plugging material constitution at least 70wt% of the composition (pg. 12, lines 10 -12).

Dependent claim 30 recites that the controlled release particles are obtained by extrusion or spray drying of a solution or dispersion which includes flavouring, gelatine, fat, film forming carbohydrate, plugging material and a solvent or be fluidized bed coating of core particles with the solution or dispersion (pg. 12, lines 19 – 23).

Dependent claim 31 recites that the controlled release particles include an outer coating layer containing at least 50wt% of a hydrocolloid selected from polysaccharides, zein, shellac, cellulose derivatives and combinations thereof (p. 13, lines 28 – 33).

Dependent claim 32 recites $(\text{Bloom number}/150) + (\text{wt\% gelatine}/30) * (\text{wt\%fat}/10) < 1$ (pg. 13, lines 8 – 15).

Dependent claim 34 recites a flavour delivery system which includes 5-70wt% of the composition of claim 22 and 5-70wt% of a carbohydrate plugging material selected from glucose, fructose, maltose, sucrose, raffinose, xylitol, sorbitol and mixtures thereof, (p. 14, lines 17 – 29).

Dependent claim 35 recites a flavour delivery system which includes 5-7wt% of a composition of claim 22 and 5-70wt% of liquid flavour (p. 14, lines 26 – 28).

Dependent claim 36 recites a process for importing controlled flavour release to chewing gum (pg. 15, lines 1 – 3, 12 -13, 15 – 17, 19 – 23 and 27 – 30) or toothpaste (pg. 15, lines 31 to pg. 16, line 2) and (pg. 16, lines 3-8) by incorporating the composition of claim 21 on a flavour delivery system which has a Bloom value of 10-300 (pg. 8, lines 22 -23) or the fat has a melting point of at least 38°C (pg. 9, lines 11-13).

Dependent claim 37 recites a chewing gum or a toothpaste which contains 0.01-6wt% of the composition of claim 21 or of a flavour delivery system with a bloom value of (pg. 16, lines 3 – 5) 10-300 (pg. 8, lines 22 -25) or the fat has a melting point of at least 38°C (pg. 9, lines 11 -13).